

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

SABINA BURTON,

Plaintiff,

v.

BOARD OF REGENTS OF THE UNIVERSITY OF
WISCONSIN SYSTEM, CHANCELLOR DENNIS
SHIELDS, JANELLE CROWLEY, DR. STACI
STROBL, DEBORAH RICE, DR. MELISSA
GORMLEY, DR. ELIZABETH THROOP, ROBERT
ATWELL, JOHN ROBERT BEHLING, JOSE
DELGADO, DR. TONY EVERS, MICHAEL GREBE,
DR. EVE HALL, MIKE JONES, TRACEY KLEIN,
REGINA MILLNER, JANICE MUELLER, DREW
PETERSEN, CHRIS PETERSON, JASON PLANTE,
RYAN RING, BRYAN STEIL, S. MARK TYLER, and
GERALD WHITEBURN,

Defendants.

OPINION and ORDER

17-cv-36-jdp

Plaintiff Sabina Burton moves to supplement the record on appeal. Dkt. 126.

This is the second case Burton brought in this court concerning her employment as a professor at the University of Wisconsin—Platteville. The first case was decided against Burton on summary judgment. *Burton v. Bd. of Regents of the Univ. of Wis. Sys. (Burton I)*, No. 14-cv-274 (W.D. Wis. filed Apr. 14, 2014). That decision was affirmed on appeal. *Burton v. Bd. of Regents of the Univ. of Wis. Sys.*, 851 F.3d 690 (7th Cir. 2017). The opinion and order granting summary judgment in *Burton I* provides useful background to the court's decision in this case. All the court's orders in *Burton I* are public records subject to judicial notice, so there is no need to supplement the appellate record to include them. *See In the Matter of Lisse*, 905 F.3d 495, 496 (7th Cir. 2018).

Burton asks that the appellate record for this case be supplemented with the entire record from *Burton I*. The court will deny Burton's motion. The purpose of a motion to supplement the appellate record under Federal Rule of Appellate Procedure 10(e) is to ensure that the record accurately reflects what happened in the district court. *United States v. Banks*, 405 F.3d 559, 567 (7th Cir. 2005). This case was decided on the summary judgment record submitted by the parties *in this case*. The underlying evidence in *Burton I* is no longer at issue. Neither side can show that the court's ruling on summary judgment in this case is correct or incorrect by citing evidence, briefing, or other documents that are part of the record in *Burton I* but not part of the record in this case. The only point of revisiting the evidence in *Burton I* would be to attack the court's decisions made in that case, and it is too late to do that.

Adding the entire record of *Burton I* to the appellate record in this case would simply distract the parties from the materials that are actually at issue in this case.

ORDER

IT IS ORDERED that Burton's Motion to Correct or Modify the Record on Appeal is DENIED.

Entered November 3, 2020.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge